

AMENDED IN SENATE JUNE 16, 2010
AMENDED IN ASSEMBLY MAY 19, 2010
AMENDED IN ASSEMBLY MAY 3, 2010
AMENDED IN ASSEMBLY APRIL 5, 2010
AMENDED IN ASSEMBLY MARCH 22, 2010
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Coto
(Coauthors: Assembly Members Beall, Caballero, Fong, Monning,
and Torrico)
(Coauthor: Senator Maldonado)

February 19, 2010

An act to repeal the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) and to add Division 50 (commencing with Section 100000) to the Water Code, relating to the Santa Clara Valley Water District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Coto. Santa Clara Valley Water District.

(1) The Santa Clara Valley Water District Act establishes the Santa Clara Valley Water District and specifies its powers and purposes relating to water supply and flood management. Under the act, a person who violates an ordinance of the district is guilty of a misdemeanor.

This bill would repeal that act and would enact a substantially revised codified version of that act as the Santa Clara Valley Water District Act (new act). The new act would establish the Santa Clara Valley Water

District and specify its powers and purposes relating to integrated management of water supply, watershed stewardship, groundwater management, and flood management. This bill, by revising the responsibilities of the district, would impose a state-mandated local program. The bill would provide that a person who violates a district ordinance that implements the authority of the district, as revised, is guilty of a misdemeanor. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Santa Clara Valley Water District.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In 1951 the Legislature created what is now the Santa Clara
- 4 Valley Water District to meet the water supply needs of Santa
- 5 Clara County.
- 6 (b) Over the ensuing years the Santa Clara Valley Water District
- 7 Act has evolved as the district has merged with other entities and
- 8 has taken on additional missions, including flood protection and
- 9 watershed stewardship.
- 10 (c) The water resource challenges facing Santa Clara County
- 11 today require an integrated comprehensive water resources
- 12 management approach to adaptively manage through changing
- 13 conditions and an uncertain future.
- 14 (d) There is a need to revise the Santa Clara Valley Water
- 15 District Act to strengthen the district's ability to provide local
- 16 control of water resources within the county; to make the language
- 17 clear and accessible to the public and policy makers; to add
- 18 accountability and transparency; and both to reflect current

1 circumstances and to provide the flexibility necessary to address
2 future challenges.

3 SEC. 2. The Santa Clara Valley Water District Act (Chapter
4 1405 of the Statutes of 1951) is repealed.

5 SEC. 3. Division 50 (commencing with Section 100000) is
6 added to the Water Code, to read:

7
8 DIVISION 50. SPECIAL WATER DISTRICT ACTS

9
10 PART 1. SANTA CLARA VALLEY WATER DISTRICT ACT

11
12 CHAPTER 1. GENERAL PROVISIONS

13
14 100000. This part shall be known, and may be cited, as the
15 Santa Clara Valley Water District Act.

16 100001. A special district is hereby created for integrated water
17 management to be called the Santa Clara Valley Water District.
18 The jurisdiction of the district consists of all the territory of the
19 County of Santa Clara lying within the exterior boundaries of the
20 county. As used in this part, “district” means the Santa Clara Valley
21 Water District.

22 100002. (a) The Legislature finds and declares all of the
23 following:

24 (1) The State of California and its people have a paramount
25 interest in securing comprehensive integrated water management
26 for the common benefit of water users within the district.

27 (2) The Santa Clara Valley Water District has provided needed
28 public services, facilities, and water supplies to residents of Santa
29 Clara County since its creation by the Legislature pursuant to
30 Chapter 1405 of the Statutes of 1951, and to most efficiently and
31 effectively use, conserve, manage, and protect the waters within
32 Santa Clara County for a sustainable future, the modifications
33 made in the act adding this part are warranted.

34 (3) This part is intended to increase the accountability of the
35 district, strengthen environmental commitments, improve water
36 quality protection and sustainability, provide protection from
37 floodwaters, and enhance water supply and water supply reliability
38 by using a stakeholder-based, and long-term perspective for water
39 management sustainability. *reliability.*

1 (4) Comprehensive, integrated water resource management
2 contributes to and enhances the well-being and the social,
3 economic, and ecosystem sustainability of Santa Clara County.

4 (5) An integrated approach to providing effective flood
5 protection measures, managing a sustainable water supply,
6 preventing land subsidence, and supporting healthy watersheds is
7 increasingly critical to provide for the community now and into
8 the future.

9 (6) Collaboration with the community, water retailers, and
10 federal, state, regional, and local agencies, including solicitation
11 and consideration of input in the decisionmaking process from
12 those affected by the decisions, is required to meet these water
13 resource management goals.

14 (7) Clear delineation of the district's authority as it relates to
15 authority exercised by other agencies is intended to add
16 transparency and to assist the public in understanding the district's
17 role in coordinating and cooperating with other agencies with
18 differing responsibilities for water management to facilitate
19 conjunctive management, ensure efficient use of resources, provide
20 timely regulatory approvals, and prevent issuance of conflicting
21 rules.

22 (8) Due to the combined forces of geography, climate, and the
23 foresight and efforts of water managers of the past, Santa Clara
24 County is blessed with a variety of sources of water supply,
25 including local surface water and groundwater, imported water
26 from both the State Water Project and the federal Central Valley
27 Project, banked water, recycled water, and contract supplies from
28 San Francisco. Some of these supplies are privately owned, or
29 under the control of other entities. Through this part, it is the intent
30 of the Legislature to authorize the district to conjunctively manage
31 the water supply under its authority for the common good while
32 not infringing on established water rights, nor limiting existing
33 authority of the City and County of San Francisco or the Bay Area
34 Water Supply and Conservation Agency, nor affecting matters that
35 are determined through the agreements between the City and
36 County of San Francisco and its wholesale customers.

37 (9) Historically, the district's role was to secure additional
38 supplies to meet demand. Now, there are limitations on the
39 district's ability to acquire additional water and the state has
40 enacted water conservation goals. As a result, the district needs

1 new authority to manage water resources by encouraging water
2 ~~conservation~~ *demand management measures* and ensuring that the
3 burden of a water shortage is borne equitably by all users.

4 (b) Through this part, the Legislature intends to authorize the
5 district to utilize an integrated water management approach *for*
6 *long-term water management sustainability* to provide a broad
7 variety of benefits to Santa Clara County, including meeting
8 existing and future water demands; protecting and improving the
9 quality of water sources and supplies; providing flexibility to
10 address the impacts of anticipated extreme hydrological events,
11 such as droughts and floods, and related climate impacts such as
12 reduced snowpack, changes in local precipitation patterns, and
13 rising sea level; and watershed stewardship to help sustain natural
14 resources.

15 (c) (1) This part shall not be construed to do any of the
16 following:

17 (A) Provide the district with regulatory authority that conflicts
18 with authority ~~already exercised by~~ *of* the State Department of
19 Public Health, the State Water Resources Control Board, the
20 California regional water quality control boards, or the Public
21 Utilities Commission ~~to require water conservation~~ *over water*
22 *quality* measures.

23 (B) Provide the district with jurisdiction over water conservation
24 measures that conflict with measures ~~that have been imposed by~~
25 ~~Santa Clara County, the cities within,~~ *imposed by the County of*
26 *Santa Clara, the cities within* Santa Clara County, or water retailers
27 pursuant to state or federal laws or regulations.

28 (C) Provide the district with unilateral authority to impose
29 measures on other agencies to mitigate climate change or increase
30 the production of renewable or alternative energy.

31 (2) It is the intent of the Legislature that the district lead, assist,
32 and oversee water conservation efforts *within the county* and
33 regulate only in the absence of other effective *local* efforts, or as
34 necessary to ensure continued delivery of water under the district's
35 state and federal contracts.

36 (d) It is the intent of the Legislature that this part should not
37 conflict with any provision of the California Constitution, or impact
38 existing water rights.

39 (e) This part shall be liberally construed to carry out its purposes
40 and intents.

1 100003. (a) This part provides the authority for the
2 organization and creation of a special district, known as the Santa
3 Clara Valley Water District, and this part succeeds the former
4 Santa Clara Valley Water District Act (Chapter 1405 of the Statutes
5 of 1951), as amended, and any of its statutory predecessors.

6 (b) Notwithstanding the repeal of the former Santa Clara Valley
7 Water District Act (Chapter 1405 of the Statutes of 1951), the
8 Santa Clara Valley Water District is continued in existence and
9 shall be deemed to have been formed and in existence as of the
10 initial enactment of that act in 1951.

11 (c) Any indebtedness, bond, note, certificate of participation,
12 judgment, contract, special tax, benefit assessment, fee, charge,
13 election, ordinance, resolution, regulation, rule, or any other action
14 taken by the district pursuant to the former Santa Clara Valley
15 Water District Act (Chapter 1405 of the Statutes of 1951), as
16 amended, and any of its statutory predecessors, that was incurred,
17 adopted, imposed, or entered into before January 1, 2011, shall
18 remain in full force and effect.

19
20 CHAPTER 2. DEFINITIONS
21

22 100020. Unless the context otherwise requires, the definitions
23 in this chapter govern the construction of this part.

24 100020.1. (a) “Abandoned well” means any well that has not
25 been used for one year or more, unless the owner demonstrates an
26 intention for future use of the well. For purposes of this section,
27 an owner demonstrates an intention for future use of the well, if,
28 in accordance with Section 115700 of the Health and Safety Code,
29 the well owner properly maintains the well in a manner that meets
30 the following requirements:

31 (1) The well shall not allow impairment of the quality of water
32 within the well and groundwater encountered by the well.

33 (2) The top of the well or well casing shall be provided with a
34 cover that is secured by a lock or by other means to prevent its
35 removal without the use of equipment or tools, to prevent
36 unauthorized access, to prevent a safety hazard to humans and
37 animals, and to prevent unlawful disposal of wastes in the well.
38 The cover shall be watertight where the top of the well casing or
39 other surface openings to the well are below ground level, such as
40 in a vault, or below known levels of flooding. The cover shall be

1 watertight if the well is inactive for more than five consecutive
2 years. A pump or motor, angle drive, or other surface feature of a
3 well, when in compliance with these requirements, shall constitute
4 a sufficient cover.

5 (3) The well shall be marked in a manner that makes it easily
6 visible and easily located, and labeled so as to be easily identified
7 as a well.

8 (4) The area surrounding the well shall be kept clear of brush,
9 debris, and waste materials.

10 (b) A well is not an “abandoned well” if a pump has been
11 temporarily removed for repair or replacement and the well meets
12 the requirements set forth in subdivision (a). The well shall be
13 adequately covered during the pump repair period to prevent injury
14 to people and animals and to prevent the entrance of foreign
15 material, surface water, pollutants, or contaminants.

16 100020.2. “Agricultural water” means water primarily used in
17 the commercial production of agricultural crops or livestock.

18 100020.3. “Board of directors” or “board” means the board of
19 directors of the district.

20 ~~100020.4. “Chief executive officer” means the individual~~
21 ~~appointed by the board to manage the district, and may be~~
22 ~~designated as General Manager or CEO.~~

23 ~~100020.5.~~

24 100020.4. “Conjunctive management” means the coordinated
25 and planned management by the district of all available water
26 resources, including groundwater, surface water, treated water,
27 recycled water, and other water resources to optimize the
28 availability, reliability, and quality of water supplies and to meet
29 other overall water resource management objectives.

30 ~~100020.6. “County” means Santa Clara County.~~

31 100020.5. “County” means the geographic area within the
32 boundaries of Santa Clara County.

33 100020.6. “County of Santa Clara” means the political entity
34 that governs the area described in Section 100020.5.

35 100020.7. “Designated floodway” means the channel of a
36 stream and that portion of the adjoining floodplain required to
37 reasonably provide for the construction of a project for passage of
38 the design flood, including the lands necessary for construction of
39 project levees.

40 100020.8. “Director” means a member of the board of directors.

1 100020.9. “District” means the Santa Clara Valley Water
2 District.

3 100020.10. “Extraction” means the act of obtaining
4 groundwater by pumping or other controlled means.

5 100020.11. “Fiscal year” means July 1 of one calendar year to
6 June 30 of the following calendar year.

7 100020.12. “Floodplain” means low lying areas bordering a
8 stream that are inundated periodically by its waters.

9 100020.13. “Groundwater” means all water beneath the earth’s
10 surface whether or not flowing through known and definite
11 channels.

12 100020.14. “Groundwater basin” means any basin identified
13 in the Department of Water Resources Bulletin No. 118, dated
14 September 1975, or as amended.

15 ~~100020.15. “Groundwater overdraft” means the condition of~~
16 ~~a groundwater basin when the amount of water withdrawn by~~
17 ~~pumping exceeds total recharge including both natural and~~
18 ~~intentional recharge. For purposes of this chapter, this~~
19 ~~determination shall be made based on a fiveyear reference period~~
20 ~~so that normal variations in water balance due to weather conditions~~
21 ~~do not trigger the measures aimed at addressing overdraft.~~

22 100020.16. “Habitat” means the specific area or environment
23 in which a particular type of plant or animal lives. To be complete,
24 an organism’s habitat must provide all of the basic requirements
25 of life for that organism.

26 100020.17. “Inactive well” or “standby well” means a well not
27 routinely operating, but capable of being made operable with a
28 minimum of effort.

29 100020.18. “In-lieu recharge” means accomplishing increased
30 storage of groundwater by providing other water to users who rely
31 on groundwater as a primary supply, in order to accomplish
32 groundwater storage through the direct use of that other water in
33 lieu of pumping groundwater.

34 100020.19. “Integrated water management” means a holistic
35 approach to flood, water resource, and environmental activities.

36 100020.20. “Mutual water company” means any private
37 ~~corporation~~ *company, corporation*, or association organized for
38 the purposes of delivering water to its stockholders and members
39 at cost, including use of works for conserving, treating, and

1 reclaiming water. A public utility subject to the jurisdiction of the
2 Public Utilities Commission is not a mutual water company.

3 100020.21. “Nonagricultural water” means water used for any
4 beneficial use other than agricultural use, including municipal,
5 industrial, landscape irrigation, and domestic uses.

6 100020.22. “Record owner” means, for purposes of compliance
7 with the notice required pursuant to Section 100125, an owner or
8 operator of a water-producing facility directly liable for paying
9 the groundwater management charges to the district, or the owner
10 of a parcel on which a water-producing facility is present, as
11 evidenced by the last equalized secured property tax assessment
12 tool.

13 100020.23. “Operator” means the person operating a
14 water-producing facility. The owner of such a facility shall be
15 conclusively presumed to be the operator unless satisfactory
16 showing is made to the district that the water-producing facility
17 actually is operated by some other person.

18 100020.24. “Person” includes federal, state, and local public
19 agencies, private corporations, partnerships, limited liability
20 companies, individuals, or groups of individuals, whether legally
21 organized or not.

22 100020.25. (a) “Production” or “producing” means the
23 extraction or extracting of groundwater, from shafts, tunnels, wells,
24 including, but not limited to, abandoned oil wells, excavations, or
25 other sources of groundwater, for domestic, municipal, irrigation,
26 industrial, or other beneficial use.

27 (b) “Production” or “producing” excludes any of the following:

28 (1) The extraction or extracting of groundwater incidentally
29 produced in the construction or reconstruction of a well.

30 (2) Water incidentally produced with oil or gas in the production
31 of oil or gas.

32 (3) Water incidentally produced in a mining or excavating
33 operation.

34 (4) Water incidentally produced in the construction of a tunnel.

35 (5) Water produced as a result of dewatering activities to avoid
36 subsurface flooding.

37 (c) If the groundwater extracted in any one of the circumstances
38 listed in subdivision (b) is used or sold by the producer for any
39 domestic, municipal, irrigation, industrial, or other beneficial

1 purpose, the exclusion from the definition of “production” or
2 “producing” shall not apply.

3 100020.26. “Recycled water” means wastewater that is suitable
4 for beneficial use as a result of treatment.

5 100020.27. “Stewardship” means the careful and responsible
6 management of the environment and natural resources for the
7 current and future benefit of the greater community.

8 ~~100020.28. “Surface water” means water above the natural~~
9 ~~surface of the ground, including streams, lakes, and reservoirs.~~

10 100020.29. “Water conservation” means technological or
11 behavioral improvements ~~in indoor or outdoor residential,~~
12 ~~commercial, industrial, institutional, or agricultural water use~~ that
13 lower demand or lower per capita water use.

14 100020.30. “Water-producing facility” means any device or
15 method, mechanical or otherwise, for the production of water from
16 the groundwater supplies within the district or a zone of the district.

17 100020.31. “Water production statement” means the certified
18 statement that is submitted by the owner or operator of a
19 water-producing facility to the district that describes the production
20 of groundwater from that facility during a specified period.

21 100020.32. “Watershed” means a region or area bounded
22 peripherally by a divide and draining immediately to a particular
23 watercourse or body of water.

24 100020.33. “Well” means any artificial excavation constructed
25 by any method for the purpose of extracting water from, or
26 injecting water into, the underground; monitoring or observing
27 groundwater; obtaining subsurface data; or installing equipment
28 for electronically protecting metallic equipment (cathodic
29 protection).

30 100020.34. “Zone” or “zones” means an area within the district,
31 as determined by the board, that will benefit from planning, studies,
32 management programs, or projects undertaken by the district, in
33 a manner unique to that area.

34 CHAPTER 3. PURPOSES AND POWERS

35
36
37 100050. The purpose of this part is to authorize the district to
38 provide integrated comprehensive protection from flooding,
39 comprehensive water resource management for all beneficial uses,

1 and water resources stewardship. In connection with carrying out
2 its mission, the district may do any of the following:

3 (a) Protect the people, property, and environmental resources
4 of the county from the damaging effects of floodwater and
5 stormwater, including tidal floodwater and the floodwater and
6 stormwater of streams that have their sources outside the district,
7 but flow into the district.

8 (b) Manage and maintain a flood protection system of levees,
9 channels, drains, debris basins, dams, and other improvements to
10 protect lives and property.

11 (c) Provide the inhabitants of the county with a reliable supply
12 of water of suitable quality sufficient to meet current and long-term
13 needs.

14 (d) Protect, augment, and manage the quantity and quality of
15 the water supplies of the district.

16 (e) Prevent the waste or diminution of the water supply in the
17 district.

18 (f) Preserve open space in the county and collaborate with
19 county parks and other entities to provide access for trails, open
20 space, recreational use, *waterways*, or environmental protection
21 on district property.

22 (g) Protect against land subsidence.

23 (h) Plan for and adapt to climate change impacts in a
24 cost-efficient manner.

25 (i) Encourage the integration of energy and water policies.

26 (j) Enhance, protect, or restore the health of streams, riparian
27 corridors, baylands ecosystems, natural resources, and habitats.

28 (k) Engage in cooperative regional or statewide efforts to carry
29 out its authority.

30 100051. The district is hereby declared to be a body corporate
31 and politic and has the powers expressly granted by this part,
32 together with other powers reasonably implied from those express
33 powers, and powers necessary or proper to carry out fully the
34 provisions of this part including:

35 (a) All of the following with regard to procedural matters:

36 (1) To have perpetual succession.

37 (2) To sue and be sued in the name of the district in all actions
38 and proceedings in all courts and tribunals of competent
39 jurisdiction.

40 (3) To adopt and make changes to a seal.

1 (4) To employ labor and contract for services consistent with
2 applicable Public Contract Code provisions.

3 (5) To enter into contracts and other instruments necessary or
4 convenient to the exercise of powers under this part.

5 (6) To have the power and right to disseminate information
6 concerning the rights, properties, activities, plans, and proposals
7 of the district.

8 (7) To adopt, enact, and enforce ordinances to carry out the
9 purposes and powers of this part.

10 (8) To adopt and carry out any definite plan or system for
11 accomplishing, facilitating, or financing any work that may
12 lawfully be accomplished by the district, and to enforce that plan
13 or system by resolution or ordinance.

14 (9) To cooperate with, enter into, and to do any acts necessary
15 for the proper performance of any agreement with the state, the
16 United States, any state, city, county, district of any kind, public
17 or private corporation, association, firm, or individual, for the
18 ownership, joint acquisition, leasing, disposition, use, management,
19 construction, installation, extension, maintenance, repair, or
20 operation of any rights, works, or other property of a kind that
21 might lawfully be acquired or owned by the district, or for the
22 lawful performance of any power or purpose of the district provided
23 for in this part.

24 (10) To carry on technical and other investigations of any kind
25 necessary or convenient for the accomplishment of water resource
26 management authorized by this part. Through inspection warrants,
27 the district has the right of access through its authorized
28 representatives to all properties within the district that impact or
29 relate to groundwater, watercourses, or streams flowing in or into
30 the district.

31 (b) All of the following with regard to acquisition of property,
32 eminent domain, and construction of work:

33 (1) To acquire by grant, purchase, lease, gift, devise, contract,
34 or otherwise; and to hold, use, enjoy, sell, let, or dispose of water,
35 water rights, real and personal property of every kind, including
36 lands, structures, buildings, rights-of-way, easements, and
37 privileges.

38 (2) Upon payment of just compensation, to exercise the power
39 of eminent domain, either within or outside the district, in
40 connection with the purposes and activities authorized by this part.

1 (3) Upon payment of just compensation, to exercise the power
2 of eminent domain to acquire surface water or extract groundwater,
3 from a person with the legal right to use that water.

4 (4) To construct, maintain, alter, operate, repair, or remove any
5 work or improvement, within or outside the district, to carry out
6 any of the purposes of this part.

7 (5) To acquire, construct, maintain, operate, and install
8 landscaping or recreational facilities in connection with any dam,
9 reservoir, percolation pond, flood protection facility, building, or
10 other works owned or controlled by the district.

11 (6) To acquire, construct, maintain, and operate facilities for
12 the percolation of water.

13 (7) To acquire, construct, maintain, operate, and install, lease,
14 and control facilities for the generation, transmission, distribution,
15 sale, exchange, and lease of electric power.

16 (8) To participate in the market of credits or other benefits
17 related to reduction of environmental impacts or improved
18 integrated resource management.

19 (9) To enter upon any land, with the permission of the landowner
20 or after obtaining an inspection warrant issued pursuant to Title
21 13 (commencing with Section 1822.50) of Part 3 of the Code of
22 Civil Procedure, to make photographs, studies, surveys,
23 examinations, or appraisals related to acquisition or use of real
24 property, and to locate the necessary works of improvement and
25 the lines for channels, conduits, canals, pipelines, wells,
26 water-producing facilities, roadways, and other rights-of-way.

27 (10) To acquire and to hold the capital stock of any mutual water
28 company or corporation, domestic or foreign, owning water or
29 water rights, canals, waterworks, franchises, concessions, or rights,
30 when the ownership of stock is necessary to secure a water supply
31 required by the district, or any part thereof, upon the condition that
32 when holding stock, the district is entitled to all the rights, powers,
33 and privileges, and is subject to all the obligations and liabilities
34 conferred or imposed by law upon other holders of stock in the
35 same company.

36 (11) To cooperate with, enter into, and to do any acts necessary
37 for the proper performance of any agreement with the state, the
38 United States, any state, city, county, district of any kind, public
39 or private corporation, association, firm, or individual, for the
40 ownership, joint acquisition, leasing, disposition, use, management,

1 construction, installation, extension, maintenance, repair, or
2 operation of any rights, works, or other property of a kind that
3 might lawfully be acquired or owned by the district, or for the
4 lawful performance of any power or purpose of the district provided
5 for in this part.

6 (c) All of the following powers with regard to acquisition,
7 storage, treatment, and distribution of water:

8 (1) To appropriate and acquire water and water rights, and to
9 import water into the district.

10 (2) To purchase, convey, store, distribute, exchange, or sell
11 water from any source for purposes of managing the water supplies
12 of the district.

13 (3) To store water in surface or underground reservoirs within
14 or outside the district for the common benefit of the district or of
15 any zones.

16 (4) To manage and replenish the groundwater basins within the
17 district.

18 (5) To take actions, including requiring inspections or imposing
19 restrictions, to prevent damage to water supply structures or water
20 quality from any cause, including, but not limited to, invasive
21 species, harmful organisms, or harmful substances.

22 (6) To conserve, treat, extract, inject, reclaim, recycle, distribute,
23 store, protect, and manage water for present and future use within
24 the district.

25 (7) To take actions in order that sufficient water of suitable
26 quality is available within the district to meet current and long-term
27 water reliability needs, as well as short-term demands during
28 critically dry periods, regulatory shortages, emergencies, or other
29 interruptions in normal supply for all beneficial water uses.

30 (8) To distribute, sell, or otherwise dispose of, outside the
31 district, any water not needed for beneficial uses within the district.

32 (9) To take any action necessary or appropriate to litigate or
33 resolve water rights, water quality, or water use issues, within or
34 outside the district, including, but not limited to, enforcement
35 actions to prevent the wasteful use of water or interference with
36 beneficial uses of water within the district.

37 (10) To enact regulations to protect against the diminution of
38 the water supplies of the district for the benefit of its inhabitants,
39 including reasonable regulation of existing and proposed wells
40 against acts destructive of the watershed, and of exportation of

1 water from the district, or from a zone, or between district charge
2 zones. Consistent with the intent to provide sustainable integrated
3 water management for the good of the county and the region as a
4 whole, the regulations shall permit district-approved
5 interoperability efforts and emergency response efforts.

6 (d) All of the following powers with regard to protection from
7 flooding:

8 (1) To manage the floodwaters and stormwaters of the district,
9 including tidal floodwaters, and the floodwaters and stormwaters
10 of streams that have sources outside of the district, but that flow
11 into the district, and to store or use the waters for beneficial
12 purposes.

13 (2) To protect the watercourses, watersheds, public highways,
14 health, safety, and property in the district, and streams flowing
15 into the district, from damage caused by those floodwaters or
16 stormwaters.

17 (3) To establish designated floodways in accordance with the
18 Cobey-Alquist Flood Plain Management Act (Chapter 4
19 (commencing with Section 8400) of Part 2 of Division 5).

20 (4) To construct, manage, and maintain all district flood
21 protection facilities, including levees, modified channels, bypasses,
22 culverts, floodwalls, detention basins, diversion structures, all
23 appurtenances and other structures, as well as to utilize
24 nonstructural methods, for the purpose of containing or conveying
25 floodwaters in accordance with this part.

26 (5) To enact regulations to protect flood protection facilities
27 from activities that could endanger the public health and safety,
28 or that diminish their ability to achieve their purpose.

29 (e) All of the following powers with regard to protection of
30 water quality:

31 (1) To conduct investigations of the quality of surface water or
32 groundwater within the district to determine if water is being
33 degraded, contaminated, or polluted.

34 (2) To expend funds to provide a replacement water supply for
35 contaminated water, to perform any cleanup, containment,
36 abatement, prevention, remedial work, public notification, or
37 educational public outreach which, in the determination of the
38 ~~board, is required under regulatory authority of any state or federal~~
39 ~~agency or by the magnitude of the endeavor, or the urgent need~~
40 *board, is necessary because of the need* for prompt action to

1 prevent, abate, or contain any threatened or existing contamination
2 of or pollution to the surface water or groundwater of the district.
3 This action may be taken in addition to work by the contaminator
4 or polluter, or if the contaminator or polluter fails to take action.
5 The district may perform the work, itself, by contract, or in
6 cooperation with any other governmental entity. The work shall
7 be performed in an economical and efficient manner.

8 (3) (A) To hold the contaminator or polluter liable for costs if,
9 pursuant to paragraph (2), the district provides a replacement water
10 supply or causes contamination or pollution to be cleaned up or
11 contained, the effects abated, or other necessary remedial action
12 is taken to address actual or threatened contamination or pollution.
13 The person or entity causing or threatening to cause that
14 contamination or pollution is liable to the district to the extent of
15 the reasonable costs actually incurred, including direct staff
16 response costs and overhead. The amount of the costs, together
17 with court costs and reasonable attorney's fees are recoverable in
18 a civil action by the district or other means. In such an action, the
19 necessity for the replacement water supply, cleanup, containment,
20 abatement, remedial work, public notification, or educational public
21 outreach and the reasonableness of the costs shall be presumed,
22 and the defendant shall have the burden of proving that the action
23 was not necessary or the costs were not reasonable.

24 (B) *This paragraph does not apply to an agricultural water user*
25 *that is in compliance with a conditional waiver issued by the*
26 *regional water quality control board under the Irrigated Lands*
27 *Regulatory Program, with respect to a contaminant or pollutant*
28 *that is covered by that waiver.*

29 (4) To enact ordinances to protect against any water
30 contamination hazards or potential water quality degradation, or
31 other circumstances endangering the public health and safety or
32 that render water unfit for beneficial use.

33 (5) To prevent land surface subsidence, where credible,
34 fact-based scientific or engineering evidence demonstrates that
35 water quality is in danger of being adversely affected.

36 (6) To require the sealing of abandoned wells according to
37 ordinance and to require the county or any incorporated city in the
38 county to require all persons applying for a land development
39 permit or approval to show on a map attached to the application
40 the existence and location of any well on the property. If a well is

1 shown, the map shall be referred by the county or city to the district
2 for review ~~and action~~ prior to approval of the application.

3 (7) To take any action necessary or appropriate to litigate or
4 resolve any action or proceeding to prevent public nuisance
5 interference with, diminution or degradation of, or to declare rights
6 in the natural flow of, any stream or surface or subterranean supply
7 of water used or useful for any purpose of the district.

8 (f) All of the following powers with regard to water resources
9 stewardship:

10 (1) To provide for the protection, enhancement, and restoration
11 of watercourses, watersheds, wetlands, riparian functions, habitat,
12 and natural resources in connection with carrying out the purposes
13 set forth in this part.

14 (2) To prevent contamination, pollution or otherwise rendering
15 unfit for beneficial use the surface or subsurface water used or
16 useful in the district.

17 (3) To provide information, resources, and consultation to the
18 agencies responsible for land-use decisions or actions that may
19 affect the health, stability, or function of watercourses, watersheds,
20 groundwater basins, riparian functions, habitat, and natural
21 resources within the district, while respecting the authority of those
22 agencies to make final land use decisions.

23 (4) To collaborate with other entities to provide access for trails,
24 open space, recreational use, or environmental protection on district
25 property.

26 (5) To implement environmental enhancement activities and
27 mitigation and monitoring of natural resources.

28 (6) To enact regulations to protect water resources stewardship
29 facilities from activities that could diminish their ability to achieve
30 their purpose.

31 (g) All of the following financial powers:

32 (1) To establish and collect fees and charges for the purpose of
33 paying any obligation of the district, and to carry out any of the
34 purposes of this part.

35 (2) To prescribe, revise, and collect property-related fees and
36 charges for services, including, but not limited to, flood protection,
37 stormwater management, storm drainage, mitigation banks,
38 restoration, enhancement, protection, or preservation of habitats,
39 furnished or to be furnished to any ~~new~~ parcel.

(3) If a drainage or flood control problem is referred to the district by the County of Santa Clara, or any incorporated city in the county, as authorized by the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) or otherwise, to require the installation of drainage or flood control improvements necessary or convenient for needs of the zone, including, but not limited to, residential, subdivision, commercial, and industrial drainage and flood control needs. Revenues derived under this section shall be used for the following:

(A) The acquisition, construction, reconstruction, maintenance, and operation of the flood control or storm drainage facilities of the zone.

(B) To reduce the principal or interest of any bonded indebtedness thereof.

(C) To replace funds expended on behalf of that zone.

(4) To incur indebtedness, and to issue bonds.

(5) To cause taxes or assessments to be imposed and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this part.

(6) To impose groundwater management charges to cover the cost of groundwater management activities, including conjunctive ~~use management~~, for the production of water from the groundwater supplies within a zone of the district that benefits from recharge of groundwater supplies, from the availability or distribution of imported water, or from the extraction of groundwater from all water extraction facilities within the district.

(7) To receive grants and other sources of funding.

(8) To pay to any city, public agency, district, or private postsecondary educational institution, a portion of the cost of water imported by that city, public agency, district, or educational institution into, for use within, and of benefit to, the district.

100052. The district shall not intervene or take part in, or pay the costs or expenses of, private actions or controversies between the owners of lands or water rights that do not affect the interests of the district.

100053. (a) This chapter shall not be construed to supersede the land use planning authority of a city, county, or ~~any other entity to which land use planning authority has been delegated.~~ *other public entity.*

1 (b) It is the intent of the Legislature that early coordination with
2 land use planning agencies help the district anticipate and plan for
3 future growth and reduce the risk of regional growth exceeding
4 water supply capability or the ability to manage flooding.

5
6 CHAPTER 4. BOARD OF DIRECTORS AND GOVERNANCE
7

8 100060. The board of directors shall consist of seven members,
9 one elected from each of seven electoral districts. The term of
10 office of a director shall be four years beginning at noon on the
11 first Friday in December following his or her election. A director
12 shall hold office until a successor is elected or appointed and
13 qualified.

14 100061. (a) On or before June 30, 2010, the board shall adopt
15 a resolution that divides the district into seven electoral districts
16 and that assigns a number to each district.

17 (b) Using the most recent census data as a basis, the electoral
18 districts shall be as nearly equal in population as possible.

19 (c) In establishing the boundaries of the electoral districts, the
20 board may give consideration to the topography, geography,
21 cohesiveness, contiguity, integrity, compactness of territory, and
22 the community of interests of the electoral districts.

23 (d) The board shall review the boundaries of the seven electoral
24 districts before November 1 of the year following the year in which
25 each decennial census is taken. The board shall adjust the
26 boundaries if determined to be necessary in accordance with
27 Section 22000 of the Elections Code.

28 100061.5. (a) The first elections for the first, fourth, sixth, and
29 seventh electoral districts established pursuant to Section 100061
30 shall be conducted at the November 2, 2010, statewide general
31 election. The first elections for the second, third, and fifth electoral
32 districts established pursuant to Section 100061 shall be conducted
33 at the November 6, 2012, statewide general election.

34 (b) Elections for the electoral districts established pursuant to
35 Section 100061 shall be conducted in accordance with the Uniform
36 District Election Law (Part 4 (commencing with Section 10500)
37 of Division 10 of the Elections Code).

38 (c) (1) One director shall be elected in accordance with this
39 section by the voters of each electoral district.

1 (2) A candidate for the board of directors shall be a resident,
2 and a qualified elector, in the electoral district for which he or she
3 is a candidate.

4 (3) A director shall continue to reside within the electoral district
5 during his or her term of office, except that no change in boundaries
6 of an electoral district shall affect the term of office of any
7 incumbent director.

8 (d) The directors elected pursuant to this section shall exercise
9 their independent judgment on behalf of the interests of the entire
10 district, including the residents, property owners, and the public
11 as a whole in furthering the purposes and intent of this part.

12 (e) Except as otherwise provided in this part, the individuals
13 who serve on the board of directors on December 31, 2010, in
14 accordance with the Santa Clara Valley Water District Act (Chapter
15 1405 of the Statutes of 1951, as amended) shall continue to serve
16 on the board established by this part. Accordingly, directors from
17 the second, third, and fifth supervisorial districts elected in 2008
18 serve until noon on December 7, 2012, after the first elections for
19 those seats are held.

20 100062. In order to encourage greater participation in the
21 political process, the board has discretion to uniformly authorize
22 partial or full payment of fees associated with candidate ballot
23 statements.

24 100063. Any vacancy in the office of a director shall be filled
25 pursuant to Section 1780 of the Government Code. Any director
26 appointed to fill a vacancy in the office of a director shall be a
27 qualified elector in the electoral district he or she will represent.

28 100063.5. (a) While serving as a member of the board of
29 directors, and for one year immediately following the end of the
30 director's term of office, no director shall seek or accept
31 compensated employment with the district.

32 (b) The board, by ordinance, shall adopt regulations governing
33 the activities of persons who lobby the district. Those regulations
34 shall include provisions requiring registration of lobbyists,
35 reporting requirements governing the activities of lobbyists and
36 communications with board members, and disclosure by directors
37 of contact with lobbyists prior to voting on matters related to the
38 contact. This ordinance shall be adopted no later than July 1, 2010.

39 (c) (1) No director shall contact staff on behalf of a party who
40 is bidding, or intends to bid, on a district contract or who has, or

1 intends, to submit a response to a request for proposals or request
2 for qualifications, nor shall a director inquire about the identity of
3 bidders or proposers prior to the time that staff has made a
4 recommendation for selection of a contractor, vendor, or consultant.

5 (2) Paragraph (1) does not prohibit a director from making
6 general inquiries about the status of a particular procurement, or
7 from providing a member of the public with information about the
8 appropriate staff contact concerning procurement of goods and
9 services by the district.

10 (d) The board shall not authorize severance pay for a
11 board-appointed employee of the district when the employee
12 voluntarily separates from district employment. For purposes of
13 this subdivision, “severance pay” does not include any otherwise
14 lawful payment required to be paid by the district under a
15 preexisting employment agreement or under a separation and
16 release agreement resolving a claim or claims made or threatened
17 to be made against the district. The board shall not agree to amend
18 an employment contract after the employee announces or requests
19 a voluntary separation, except upon a board determination, in open
20 session, that an adjustment in compensation is required to retain
21 the employee and is in the best interest of the district.

22 100064. Each year at a regular board meeting in January, the
23 board shall select a chairperson and vice chairperson from its
24 members to serve for a year term.

25 100065. (a) All meetings of the board shall be called and held
26 in accordance with the Ralph M. Brown Act (Chapter 9
27 (commencing with Section 54950) of Part 1 of Division 2 of Title
28 5 of the Government Code).

29 (b) A public report made pursuant to Section 54957.1 of the
30 Government Code of actions taken in closed session shall be
31 reflected in the minutes of the board meeting at which the report
32 was made.

33 100065.5. (a) (1) Except as provided in paragraph (2), reports
34 prepared by district staff for the board that recommend action on
35 any item to be considered at a regular public meeting of the board,
36 or at a public hearing conducted by the board, shall be made
37 available to the public no later than six days prior to the date of
38 that meeting or hearing.

39 (2) Notwithstanding paragraph (1), the following reports shall
40 be made available to the public within the time period required by

1 the Ralph M. Brown Act (Chapter 9 (commencing with Section
2 54950) of Part 1 of Division 2 of Title 5 of the Government Code):

3 (A) Reports relating to a contract award, if the contract has been
4 considered at a prior board meeting.

5 (B) Reports recommending board action necessary to meet a
6 legal deadline, including a deadline for a grant funding application.

7 (C) Reports conveying a recommendation from a board
8 committee.

9 (D) Reports recommending immediate board action to address
10 urgent health, safety, or financial matters identified in the report.

11 (E) Supplemental reports conveying additional information
12 received after the initial report was released.

13 (3) If a recommendation in a staff report is revised based upon
14 direction from a member of the board, the revision shall be
15 disclosed in the applicable report.

16 (4) This subdivision does not require the public release of any
17 document that is exempt from disclosure pursuant to the California
18 Public Records Act (Chapter 3.5 (commencing with Section 6250)
19 of Division 7 of Title 1 of the Government Code) or any other
20 provision of law.

21 100066. (a) The board, in accordance with Chapter 2
22 (commencing with Section 20200) of Division 10, may authorize
23 each director to receive compensation for attendance at meetings
24 of the board and committees and for other service rendered as a
25 director. A director shall not receive total compensation, including
26 stipends, expenses, or benefits, in excess of the amount allowed
27 by law. Reimbursement for expenses incurred by directors is
28 subject to Sections 53232.2 and 53232.3 of the Government Code.

29 (b) On a quarterly basis, a report of the expense reimbursements
30 to each director shall be placed on an open session board meeting
31 agenda for review and a determination by the board regarding
32 whether the expense reimbursements comply with the board's
33 reimbursement policies adopted pursuant to Section 53232.3 of
34 the Government Code. Only expenses in compliance with those
35 policies may be reimbursed by the district.

36 100067. The board, by resolution, may establish or eliminate
37 advisory boards, committees, or commissions as in its judgment
38 will serve the best interests of the district. At least one such
39 advisory body shall include representation by users of agricultural
40 water. To the extent allowed by conflict of interest laws,

1 representation by public water utilities, as defined in Section 216
2 of the Public Utilities Code, that operate within the district's
3 borders shall be included on at least one such advisory body. The
4 board may assign duties consistent with this part. The composition
5 of an advisory board, committee, or commission shall be specified
6 in the creating resolution, and each board, committee, or
7 commission is required to have at least three members. Members
8 serve at the pleasure of the board.

9 100068. A member of the board may be recalled by the voters
10 pursuant to Chapter 1 (commencing with Section 11000) of
11 Division 11 of the Elections Code.

12 100069. The board of directors shall serve as the governing
13 body of the district. The board may take action by motion,
14 resolution, or ordinance. Unless otherwise provided in this part,
15 the affirmative vote of a majority of the board is required to pass
16 a motion, resolution, or ordinance.

17 100070. A motion is adopted when carried by the required
18 majority vote.

19 100071. If more formality than a motion is required or desired
20 to authorize board action, a resolution recorded in the minutes of
21 the meeting may be adopted. A resolution is adopted when carried
22 by the required majority on a rollcall vote.

23 100072. (a) When the district intends a governmental exercise
24 of authority over the public through establishment of rules or
25 regulations that require compliance or that prohibit actions or
26 conduct, the board shall exercise that authority by ordinance.

27 (b) The board shall follow a public process reasonably calculated
28 to give those persons interested in the adoption, amendment, or
29 repeal of an ordinance adequate information and an opportunity
30 to be heard. The process shall include all of the following
31 procedural requirements:

32 (1) The ordinance shall be drafted in plain language.

33 (2) The agenda item proposing consideration of adoption or
34 modification of an ordinance shall include the following:

35 (A) A statement of the necessity for the action.

36 (B) Identification of each technical, theoretical, or empirical
37 study on which the board relied.

38 (C) Facts, evidence, or other information relative to the
39 anticipated economic impact of the action.

1 (D) Efforts made to avoid duplication of other entities'
2 jurisdiction.

3 (3) The ordinance or modification shall be based upon credible,
4 fact-based science or engineering information concerning the need
5 for, and consequences of, district action.

6 (4) The agenda item and all supporting information shall be
7 posted on the district's Internet Web site.

8 (5) The agenda item shall be mailed to those who have filed a
9 request to be notified, and to those persons or entities the district
10 determines should be notified because of likely interest in the
11 subject matter.

12 (c) ~~Where~~ *If* merited due to the complexity or magnitude of the
13 proposed adoption or modification of an ordinance, prior to
14 noticing the public hearing, the district may involve interested
15 parties in public discussions of the proposal.

16 (d) A public hearing, noticed pursuant to Section 6066 of the
17 Government Code, is a prerequisite to adoption of an ordinance.
18 To be valid, an ordinance shall be enacted by a majority on a
19 rollcall vote documented in the minutes of the board meeting. If
20 publication is required under state law, only the title and summary
21 of the ordinance shall be published. An ordinance shall be in full
22 force and effect 30 days after adoption, or at a later date specified
23 in the ordinance.

24 (e) Prior to initiating the required public process for adoption
25 of an ordinance, the district shall complete relevant studies, as
26 necessary, to properly frame the issues for public input.

27 (f) It is a misdemeanor for any person to violate ~~any~~ a district
28 ordinance adopted pursuant to this section from and after the
29 effective date of the ordinance. The violation is punishable by a
30 fine not to exceed five hundred dollars (\$500), or imprisonment
31 in the county jail not to exceed 30 days, or both the fine and
32 imprisonment.

33 (g) Any violation or threatened violation of a district ordinance
34 may also be enjoined by civil action.

35 (h) An ordinance is subject to referendum by the electorate.

36 100073. Prior to adoption of a regulation, the board shall make
37 a finding that the public necessity requires the action, and the
38 resolution or ordinance enacted shall state the ultimate facts upon
39 which the finding is based.

1 100074. Any person aggrieved by the refusal to issue a permit,
2 by the terms of a permit, or by any district decision made under
3 an ordinance shall have the right of review, as follows:

4 (a) The aggrieved person may file a written request to have the
5 district decision reviewed by the chief executive officer. The
6 request shall include the specific decision being challenged, and
7 the basis upon which the decision is being challenged.

8 (b) A review meeting to be presided over by the chief executive
9 officer, or his or her designee, shall be scheduled within 30 days
10 of the request. Written notice of the date, place, and time of the
11 review meeting shall be given at least 14 days in advance unless
12 the applicant waives the ~~14-day~~ 14-day requirement.

13 (c) The review by the chief executive officer, or *his or her*
14 designee, shall take place in an open public forum. Notice of the
15 proceeding shall be posted on the district's Internet Web site. The
16 public shall be provided an opportunity to speak on the matter at
17 the review meeting.

18 (d) The chief executive officer, or *his or her* designee, shall
19 issue a decision within 30 days of the completion of the review.

20 100075. Any person who has exercised the right to review
21 pursuant to Section 100074 who is unsatisfied with the results of
22 the review shall have the right of appeal to the board of directors,
23 as follows:

24 (a) An appeal shall be in writing and submitted to the clerk of
25 the board within 14 days of the issuance of the review decision.
26 The appeal shall specify the basis for appealing the decision.

27 (b) The clerk of the board shall set the appeal for hearing at a
28 public meeting and shall provide the appellant with ~~14-days~~ *days*'
29 advance notice in writing of the time and place set for the hearing.
30 The notice of the hearing shall also be made public.

31 (c) At the hearing, both the appellant and district staff may
32 present written documentation and verbal testimony. The board
33 may ask questions.

34 (d) At the close of the hearing, the board shall determine whether
35 to uphold, modify, or reverse, in whole or in part, the review
36 decision. Minutes *relating to actions taken by the board* of the
37 hearing, including the decision and the vote of the board, shall be
38 made public.

39 (e) The decision of the board shall be final and conclusive.

1 100075.5. A person aggrieved by any decision of the board
2 not covered by Section 100075 may address the board on the matter
3 in the public comment portion of each scheduled board meeting.

4 100076. (a) The board may appoint and employ any officers
5 and positions as desired and prescribe their duties and set their
6 compensation.

7 (b) The board appointees shall hire the additional employees
8 deemed necessary to perform acts necessary or proper to
9 accomplish the purposes of this part.

10 (c) Officers and employees shall be employed, suspended, or
11 their employment terminated in accordance with written rules,
12 regulations, standards, and procedures for appointment, suspension,
13 and termination of employment.

14 100077. At the option of the board, employees appointed by
15 the board may be required to execute public official bonds before
16 entering upon the duties of their employment. The district board
17 may opt for the district to pay for the bonds.

18 100078. Except as otherwise provided by this part or other
19 applicable law, Part 3 (commencing with Section 900) and Part 4
20 (commencing with Section 940) of Division 3.6 of Title 1 of the
21 Government Code govern claims for money or damages against
22 the district.

23 100079. In order to determine the legality of the district's
24 existence, or of any contract entered into by the district, the district
25 may institute a proceeding in the superior court of this state,
26 pursuant to Section 860 of the Code of Civil Procedure. The State
27 of California shall be a required defendant in the action, and
28 consent to be named a defendant is given.

29
30 CHAPTER 5. ZONES
31

32 100080. (a) The board, by resolution, may at any time establish
33 one or more separate or overlapping zones within the district
34 without reference to the boundaries of other zones. A zone may
35 be created by the board upon a determination that it is in the public
36 interest to provide specific water resource management, flood
37 control or watershed stewardship services, or levels of service,
38 construct or improve facilities, or raise revenues, within a defined
39 area of the district.

1 (b) The district may provide any service or level of service, or
2 construct or improve any facility within a zone, that the district is
3 authorized to undertake in the district as a whole. The district may
4 exercise any fiscal power within a zone that the district is
5 authorized to exercise in the district as a whole. Prior to the
6 imposition of any management charge, the board shall establish
7 the zones within which the management charge will be effective.

8 (c) (1) To initiate proceedings for the formation of a new zone,
9 the board shall adopt a resolution that does all of the following:

10 (A) States that the proposal is made pursuant to this section.

11 (B) Sets forth a description of the boundaries of the territory to
12 be included in the zone.

13 (C) Describes the reasons for forming the zone.

14 (D) Identifies the services or levels of service to be provided,
15 facilities to be constructed or improved, or revenues to be raised,
16 within the zone.

17 (E) Describes the methods by which those services or levels of
18 service, or facilities, will be financed.

19 (F) Proposes a name or number for the zone.

20 (2) The formation of a zone may also be initiated by the
21 submission of a petition signed by not less than 10 percent of the
22 registered voters residing within the proposed zone. The petition
23 shall contain all of the information described in subdivision (c).

24 (3) Upon the adoption of a resolution or the receipt of a petition
25 pursuant to paragraph (2), the board shall fix the date, time, and
26 place for the public hearing on the formation of the zone. The
27 district shall publish notice of the hearing, including the
28 information described in paragraph (1), pursuant to Section 6061
29 of the Government Code. The district shall mail the notice at least
30 20 days before the date of the hearing to all owners of property
31 within the proposed zone. The district shall post the notice in at
32 least three public places within the territory of the proposed zone.

33 (4) At the hearing described in paragraphs (1) to (3) inclusive,
34 the board shall hear and consider any protests to the formation of
35 the zone. If, at the conclusion of the hearing, the board determines
36 either that more than 50 percent of the total number of voters
37 residing within the proposed zone have filed written protests to
38 the formation, or that property owners who own more than 50
39 percent of the assessed value of all taxable property in the proposed
40 zone have filed written protests to the formation, the board shall

1 terminate the proceedings. If the board determines that the written
2 protests have been filed by 50 percent or less of those voters or
3 property owners who own 50 percent or less than the assessed
4 value of all taxable property in the proposed zone, the board may
5 proceed to form the zone.

6 (5) If the resolution or petition proposes that a project within
7 the zone is to be financed by special taxes, benefit assessments,
8 fees, standby charges, bonds, or notes, the board shall proceed
9 according to law. If the voters or property owners do not approve
10 those funding methods, the zone shall remain formed, but
11 alternative financing shall be obtained.

12 (d) The board may change the boundaries of a zone or dissolve
13 a zone by following the procedures for the formation of a zone.

14 (e) A local agency formation commission shall not review,
15 approve, or disapprove a proposal to form a zone, a proposal to
16 change the boundaries of a zone, or a proposal to dissolve a zone.

17 (f) Proceedings for the establishment of a new zone or for an
18 amendment to existing zones may be conducted concurrently with,
19 and as a part of the institution of, projects providing service to the
20 zones to be created.

21 CHAPTER 6. FINANCIAL MATTERS

22
23
24 100090. The district shall adopt a system of accounting and
25 auditing that shall completely and at all times show the district's
26 financial condition. The system of accounting and auditing shall
27 adhere to generally accepted accounting principles and auditing
28 standards. The chief financial officer shall make, at a minimum,
29 quarterly written reports to the board regarding the receipts and
30 disbursements and balances in the accounts controlled by the
31 district.

32 100091. (a) On or before June 1 of each year, the board shall
33 hold a noticed public meeting to hear comments from the public
34 regarding the board's proposed budget.

35 (b) The board shall annually review its financial reserves and
36 its reserve management policy.

37 (c) On or before June 30 of each year, the board, by resolution,
38 shall adopt the budget as finally determined.

39 100092. The board may establish reserves as the board deems
40 appropriate.

1 100095. (a) The district may charge a fee to cover the cost of
2 any service that the district provides, or the cost of enforcing any
3 regulation for which the fee is charged. A fee shall not exceed the
4 costs reasonably borne by the district in providing the service or
5 enforcing the regulation for which the fee is charged.

6 (b) The district may charge district residents or taxpayers a fee
7 authorized by this section that is less than the fee that it charges
8 nonresidents or nontaxpayers.

9 (c) The board, by resolution, may adopt policies and procedures
10 governing the partial or full waiver of any fees charged pursuant
11 to this section if it is determined that imposition of the fee in a
12 particular situation would not be in the public interest.

13 100096. Prior to imposing or increasing any fee for
14 property-related services, the district shall comply with the
15 requirements of Article XIII D of the California Constitution.

16 100097. The district may expend its share of property tax
17 revenue allocated pursuant to subdivision (b) of Section 93 of the
18 Revenue and Taxation Code to pay for both of the following:

19 (a) The general administrative costs and expenses, including
20 maintenance and operation of established works of the district, to
21 carry out any of the objects or purposes of this part of common
22 benefit to the district.

23 (b) The costs and expenses of constructing or extending any or
24 all works established within or on behalf of a zone within the
25 district if revenue used for that purpose is replaced.

26 100098. The district may impose benefit assessments to pay
27 the cost of carrying out any of the objects or purposes of this part
28 on behalf of a zone or zones, including constructing, maintaining,
29 managing, operating, extending, repairing, or otherwise improving
30 any work of improvement, implementing programs or projects, or
31 financing any of the foregoing, consistent with Article XIII D of
32 the California Constitution. These benefit assessments include,
33 but are not limited to, benefit assessments imposed pursuant to
34 any of the following:

35 (a) The Improvement Act of 1911 (Division 7 (commencing
36 with Section 5000) of the Streets and Highways Code).

37 (b) The Improvement Bond Act of 1915 (Division 10
38 (commencing with Section 8500) of the Streets and Highways
39 Code).

1 (c) The Municipal Improvement Act of 1913 (Division 12
2 (commencing with Section 10000) of the Streets and Highways
3 Code).

4 (d) The Landscaping and Lighting Assessment Act of 1972
5 (Part 2 (commencing with Section 22500) of Division 15 of the
6 Streets and Highways Code).

7 100099. The district may impose special taxes, consistent with
8 Article XIII C of the California Constitution, pursuant to the
9 following:

10 (a) Article 3.5 (commencing with Section 50075) of Chapter 1
11 of Part 1 of Division 1 of Title 5 of the Government Code. The
12 special taxes shall be applied uniformly to all taxpayers or all real
13 property within the district, except that unimproved property may
14 be taxed at a lower rate than improved property. The district may
15 provide an exemption from these taxes for residential parcels
16 owned and occupied by one or more taxpayers who are at least 65
17 years of age, or who qualify as totally disabled under the federal
18 Social Security Act, if the total household income is less than an
19 amount that is approved by the voters of the district.

20 (b) The Mello-Roos Community Facilities Act of 1982 (Chapter
21 2.5 (commencing with Section 53311) of Part 1 of Division 2 of
22 Title 5 of the Government Code).

23 100100. If the board of directors determines that the amount
24 of revenue available to the district or any of its zones is inadequate
25 to acquire, construct, improve, rehabilitate, or replace the facilities
26 authorized by this division, or for funding or refunding any
27 outstanding indebtedness, the board of directors may incur debt
28 pursuant to this chapter or any other applicable provision of law.

29 100101. (a) The district may issue promissory notes to borrow
30 money and incur indebtedness for the purposes of this part,
31 including, but not limited to, the payment of current expenses,
32 pursuant to this section.

33 (b) Any indebtedness incurred pursuant to this section shall bear
34 interest at a rate that shall not exceed the rate permitted under
35 Article 7 (commencing with Section 53530) of Chapter 3 of Part
36 1 of Division 2 of Title 5 of the Government Code.

37 (c) Each indebtedness incurred pursuant to this section shall be
38 authorized by resolution adopted by a four-fifths vote of the board
39 and evidenced by a promissory note signed by both the chairperson
40 of the board and the district's chief executive officer.

1 100102. (a) The district may borrow money and incur
2 short-term indebtedness, not to exceed the limitations established
3 in subdivision (d) by action of the board of directors without the
4 necessity of calling and holding an election.

5 (b) Indebtedness may be incurred pursuant to this section for
6 any purpose for which the district is authorized to expend funds.

7 (c) Indebtedness incurred under this section shall be evidenced
8 by short-term notes payable at stated times fixed by the board. The
9 short-term notes shall mature no later than five years from the date
10 of issuance. Interest on short-term notes shall not exceed the limits
11 established under state law. Short-term notes are general
12 obligations of the district payable from revenues, charges, taxes,
13 and assessments.

14 (d) Short-term notes shall not to be issued if in any fiscal year
15 the amount payable, when added to the interest thereon, exceeds
16 85 percent of the estimated amount of the revenues, charges, taxes,
17 and assessments of the district that will be available in that fiscal
18 year for payment of short-term notes and the interest thereon.

19 100103. (a) If the board determines that it is necessary to incur
20 a general obligation bond indebtedness for the acquisition or
21 improvement of real property, the board may proceed pursuant to
22 Article 11 (commencing with Section 5790) of Chapter 4 of
23 Division 5 of the Public Resources Code.

24 (b) If the board determines that a bonded indebtedness should
25 be incurred to pay the cost of any project in any zone or zones, the
26 board, by resolution, may determine and declare the respective
27 amounts of bonds to be issued to raise the amount of money
28 necessary for each project and the denomination and the maximum
29 rate of interest of the bonds. In determining each amount of bonds
30 and the amount of money necessary for each project, the board
31 may include in its determination all of the following:

32 (1) The portion, if any, of the cost of the project already
33 advanced by the district for which the district proposes to reimburse
34 itself from the proceeds of sale of the bonds.

35 (2) The cost of lands, rights-of-way, easements, and property
36 proposed to be taken, acquired, or injured in carrying out the
37 project.

38 (3) All incidental expenses likely to be incurred, including legal,
39 clerical, engineering, superintendence, inspection, printing, and
40 advertising.

1 (4) If deemed advisable, an amount sufficient to pay interest on
2 any bonds proposed to be issued during all or any part of the period
3 of construction of the project and for a period not to exceed 12
4 months thereafter. The board shall cause a copy of the resolution,
5 duly certified by the clerk, to be filed for record in the office of
6 the county recorder within five days after its issuance. After the
7 filing of the resolution, the board may proceed with the bond
8 election.

9 (c) Upon authorization, the board may call a special bond
10 election in the zone or zones participating submitting the question
11 whether or not bonds can be issued in the amount determined in
12 the resolution for the purpose stated. The bonds and the interest
13 thereon shall be paid from revenue derived from annual taxes,
14 charges, or assessments imposed in accordance with this part.

15 (d) The board shall call the special bond election by ordinance
16 and not otherwise. The ordinance shall include all of the following:

17 (1) A brief, general description of the objects and purposes, and
18 a reference to the recorded copy of the resolution adopted by the
19 board.

20 (2) The estimated cost of the proposed project, the amount of
21 the principal of the indebtedness to be incurred, and the maximum
22 rate of interest to be paid on the indebtedness. The rate of interest
23 to be paid on the indebtedness shall not exceed the limits provided
24 under state law.

25 (3) The date on which the special election will be held.

26 (4) The form and contents of the ballot to be used.

27 (5) The establishment of special bond election precincts within
28 the boundaries of each zone.

29 (6) The designation of a polling place and appointment of one
30 inspector, one judge, and one clerk for each special bond election
31 precinct.

32 (e) The general election laws of the state govern the election,
33 except as otherwise provided in this part and set forth in the
34 ordinance.

35 (f) The board shall cause a map or maps to be prepared that
36 includes a general description of the project, and that identifies
37 the location of the proposed projects. The map shall be posted on
38 the district Internet Web site and in a prominent place at the district
39 office for public inspection for at least 30 days before the date
40 fixed for the election.

1 (g) The district shall publish, pursuant to Section 6062 of the
2 Government Code, in a newspaper of general circulation circulated
3 in each zone affected, the ordinance calling for the special bond
4 election. The required publication shall be completed at least 14
5 days before the election. If there is no newspaper, the ordinance
6 shall be posted on the district's Internet Web site or in five public
7 places, in each zone designated by the board for at least 30 days
8 before the date of the election. The district is not required to
9 provide additional notice of the election, or to issue polling place
10 cards.

11 (h) Any defect or irregularity in the proceedings prior to the
12 calling of the special bond election will not affect the validity of
13 the bonds authorized by the election. If at the election the required
14 percentage of the votes cast are in favor of incurring bonded
15 indebtedness, bonds for the zone or participating zones for the
16 amount stated in the proceedings shall be issued and sold.

17 (i) If any proposition pursuant to this section is defeated by the
18 voters, the board of directors shall not call for another election on
19 a substantially similar proposition for six months after the first
20 election.

21 100104. (a) The board, by resolution, shall prescribe the form
22 of bonds, which shall include a designation of the zones affected,
23 and of the interest coupons attached thereto. Bonds shall be payable
24 annually or semiannually at the discretion of the board each and
25 every year on a day and date, and at a place to be fixed by the
26 board, and designated in the bonds, together with the interest on
27 all amounts unpaid on the date until the whole of the indebtedness
28 has been paid.

29 (b) The board may divide the principal amount of any issue into
30 two or more series and fix different dates for the bonds of each
31 series. The bonds of one series may be made payable at different
32 times from those of any other series. The maturity of each series
33 shall comply with this section. The board may fix a date, not more
34 than two years from the date of issuance, for the earliest maturity
35 of each issue or series of bonds. The final maturity date shall not
36 exceed 40 years from the time of incurring the indebtedness
37 evidenced by each issue or series. The board may provide for call
38 and redemption of all or any part of any issue or series of bonds
39 before maturity at prices determined by the board. A bond is not

1 subject to call or redemption prior to maturity unless it contains a
2 recital to that effect.

3 (c) The bonds shall be issued in any denominations as the board
4 determines. Bonds shall be issued in denominations of one
5 thousand dollars (\$1,000) or more, payable on the days and at the
6 place fixed in the bonds, at the specified interest rate, made payable
7 annually or semiannually. The bonds shall be numbered
8 consecutively, signed by the chair of the board, and countersigned
9 by the auditor of the district, with the seal of the district affixed
10 thereto by the clerk of the board. Signatures may be printed,
11 engraved, or lithographed. The interest coupons of the bonds shall
12 be numbered consecutively and signed by the auditor. In case any
13 officer whose signatures or countersignatures appear on the bonds
14 or coupons ceases to be an officer before the delivery of the bonds
15 to the purchaser, the bonds, coupons, and signatures or
16 countersignatures shall nevertheless be valid and sufficient for all
17 purposes.

18 100105. The board may issue and sell the authorized bonds
19 for the uses and purposes of the zone or zones. The proper record
20 of the transactions shall be placed upon the books of the district,
21 and the respective zone funds shall be applied exclusively to the
22 purposes and objects described in the ordinance calling the special
23 bond election.

24 100106. Any bonds issued under this part and the interest
25 thereon shall be paid by revenue derived from rates or an annual
26 tax or assessment, imposed in accordance with this part. No zone,
27 nor the property in the zone, is liable for the share of bonded
28 indebtedness of any other zone; nor shall any moneys derived from
29 taxation or assessment in any of the several zones be used in
30 payment of principal or interest or otherwise of the share of bonded
31 indebtedness chargeable to any other zone, except in the case of
32 joint projects by participating zones.

33 100107. To the extent not covered by ~~water-rates~~ *charges*, the
34 board shall impose a tax or assessment each year sufficient to pay
35 the interest and that portion of the principal of the bonds that is
36 due or to become due before the time for making the next general
37 tax levy. Taxes or assessments shall be imposed and collected in
38 the respective zones of issuance together with, and not separately
39 from, taxes for county purposes. Collected funds shall be paid into
40 the county treasury to the credit of the zone of payment, and be

1 used for the payment of the principal and interest on the bonds,
2 and for no other purpose. The county treasurer shall pay the
3 principal and interest on the bonds in the manner provided by law
4 for the payment of principal and interest on bonds of the county.

5 100108. The bonds of the district issued for any zone or zones,
6 are legal investments for all trust funds, and for the funds of all
7 insurance companies, banks, both commercial and savings, and
8 trust companies, and for the state school funds, and whenever any
9 money or funds may by law be used as security for the performance
10 of any act, or be invested in bonds of cities, cities and counties,
11 counties, school districts, or municipalities in the state, the money
12 or funds may be invested in the bonds of the district.

13 100109. All bonds issued by the district under the provisions
14 of this part shall be free and exempt from all taxation within the
15 state.

16 100110. Any improvement for which bonds are approved for
17 issuance in accordance with this part shall be made in accordance
18 with the supporting report, plans, specifications, and map unless
19 the doing of any work is prohibited by law, or is rendered contrary
20 to the best interests of the district by some change of conditions
21 in relation thereto, in which event the board may order necessary
22 changes made in the proposed work or improvements and may
23 cause any plans and specifications to be made and adopted.

24 100111. If bonds have been authorized by any zone or
25 participating zone of the district and the proceeds of the sale have
26 been properly expended, and the board, by resolution, determines
27 that additional bonds should be issued for carrying out the work,
28 the board may submit to the qualified voters of the zone or
29 participating zone the question of issuing additional bonds in the
30 same manner and procedure as provided in this part. All the
31 requirements of this part for the issuing and sale of the bonds and
32 for the expenditure of the proceeds apply to the additional bonds.

33 100112. (a) The board may finance any enterprise and issue
34 revenue bonds pursuant to the Revenue Bond Law of 1941 (Chapter
35 6 (commencing with Section 54300) of Part 1 of Division 2 of
36 Title 5 of the Government Code) for the purpose of financing the
37 construction, reconstruction, replacement, acquisition, or
38 improvement of any facility or facilities necessary or convenient
39 for the storage, treatment, including reclamation, transmission, or
40 distribution of water for beneficial use within the district and for

1 the purpose of generation or transmission of electricity. This section
2 does not apply to the acquisition of any facility or facilities already
3 employed in any public utility use, unless the acquisition of the
4 facility or facilities is by mutual agreement between the district
5 and the owner of the property.

6 (b) The district may finance facilities and issue bonds pursuant
7 to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5
8 (commencing with Section 53311) of Part 1 of Division 2 of Title
9 5 of the Government Code).

10 (c) The district may acquire and improve land, facilities, or
11 equipment and issue securitized limited obligation notes pursuant
12 to Article 7.4 (commencing with Section 53835) of Chapter 4 of
13 Part 1 of Division 2 of Title 5 of the Government Code.

14 (d) Article 3 (commencing with Section 54380) of Chapter 6
15 of Part 1 of Division 2 of Title 5 of the Government Code shall not
16 apply to the issuance and sale of bonds pursuant to this section.

17 (e) The board shall not proceed under this section until it has
18 received a favorable vote at a special election called by resolution
19 of the board as to whether the district may authorize and sell
20 revenue bonds under this section. If the required percentage of the
21 voters of the district voting on the proposition at the election vote
22 in favor of the proposition, the board may proceed to issue and
23 sell revenue bonds as provided by this section.

24 (f) The resolution calling the election shall include all of the
25 following:

26 (1) The date of the election.

27 (2) The proposition to be submitted.

28 (3) The manner of holding the election and of voting for or
29 against the proposition.

30 (4) A statement that in all other particulars the election will be
31 held and the votes canvassed as provided by law for the holding
32 of elections within the district.

33 (g) The election may be held separately or may be consolidated
34 with any other election authorized by law at which the voters of
35 the district may vote.

36 (h) The district shall publish the resolution calling the election
37 and no other notice of the election need be given.

38 100113. If a proposition for issuing bonds fails to receive the
39 required number of affirmative votes of the qualified voters voting
40 at the election, the board shall not call or order another election

1 for the same object or purpose, in the same zone or participating
2 zone, for six months from the date of the failed election.

3 100114. The repeal or amendment of this part or the change
4 in boundaries of any zone of the district shall not in any way affect
5 or release any of the property in that district or any zone from the
6 obligations of any outstanding bonds or indebtedness until all
7 outstanding bonds and indebtedness have been fully paid and
8 discharged.

9
10 CHAPTER 7. GROUNDWATER MANAGEMENT

11
12 100120. (a) Groundwater management within the boundaries
13 of the district is a primary purpose for which the district was
14 established and is empowered.

15 (b) As an integral part of the district's comprehensive integrated
16 water management program, the district shall conjunctively manage
17 its groundwater and other water supplies to optimize water supply
18 reliability for the benefit of the county as a whole and to protect
19 infrastructure from subsidence. This includes actively recharging
20 groundwater basins using local and imported water supplies as
21 well as in-lieu recharge methods, including, but not limited to,
22 treated water deliveries, recycled water development, water
23 banking, and water conservation programs.

24 100121. The district, by ordinance, may take any of the
25 following actions in order to reduce or eliminate *current or* future
26 groundwater overdraft, or to improve or protect the quality and
27 sustainability of groundwater supplies within the district:

28 (a) Impose reasonable registration and measurement device
29 requirements and performance standards on water-producing
30 facilities to minimize impact on water resources.

31 (b) Require the owner or operator of each water-producing
32 facility *to install and maintain a water meter or, if a meter is not*
33 *required*, to submit a sworn statement to the district regarding
34 groundwater production.

35 (c) (1) Require *urban water* conservation practices and
36 measures, including the imposition of rate structures to promote
37 water conservation, such as tiered rates or other methods aimed at
38 discouraging the wasteful use of water. However, a water retailer
39 or other entity that has adopted, and is implementing, an urban
40 water management plan pursuant to Part 2.6 (commencing with

1 Section 10610) of Division 6, or an equivalent water conservation
2 plan, that meets standards for water conservation adopted by the
3 Department of Water Resources or another state agency responsible
4 for water resources, shall not be subject to additional water
5 conservation requirements imposed by the district, unless those
6 additional requirements are a precondition for the continued
7 delivery of imported water to the district as established by state or
8 federal law.

9 *(2) For purposes of this subdivision, a water supplier or other*
10 *entity shall be deemed to have adopted and implemented an urban*
11 *water management plan only if the water supplier or other entity*
12 *has been determined by the department or the state board to meet*
13 *the eligibility requirements for water grants or loans pursuant to*
14 *Section 10608.56.*

15 *(d) Require efficient water management practices from*
16 *agricultural water users that are consistent with state requirements,*
17 *including requirements set forth in Section 10608.48.*

18 ~~(d)~~

19 *(e) Enter into an agreement with an owner or operator of*
20 *water-producing facilities for the purpose of managing water*
21 *supplies of the district.*

22 ~~(e)~~

23 *(f) Regulate groundwater extractions to the extent necessary to*
24 *prevent groundwater overdraft and minimize the risk of land*
25 *subsidence.*

26 100122. The district shall annually assess and report on the
27 district's efforts toward protection and augmentation of the water
28 supplies of the district. The public report shall serve as the basis
29 for proposing any increase or decrease in an existing charge or fee
30 or for the imposition of a new charge or fee and shall include all
31 of the following information:

32 (a) Information describing the district's activities in the
33 protection and augmentation of the water supplies of the district.

34 (b) Information describing in detail the present and future water
35 requirements of the district.

36 (c) Expected future capital improvement and maintenance and
37 operating requirements.

38 (d) The estimated costs for the fiscal year, and the long term,
39 of managing, protecting, operating, maintaining, augmenting, and
40 financing water supplies for each zone, including a detailed basis

1 upon which the costs are calculated and the reasons that any
2 particular groundwater management charge is proposed to be
3 increased, unchanged, or reduced.

4 (e) Information specifying the services provided within each
5 zone where a groundwater management charge has been imposed
6 and collected, or is recommended to be imposed. The methodology
7 for ascribing a particular cost or portion of cost to a particular zone
8 shall be specifically identified.

9 (f) If any groundwater management charge increase is
10 recommended for a zone, a proposal of a rate or rates per acre-foot
11 for agricultural water, and a rate or rates per acre-foot for all water
12 other than agricultural water shall be stated in the report.

13 100123. (a) The board may impose and collect a groundwater
14 management charge for production of water from the groundwater
15 supplies within a zone managed by the district for the protection
16 and augmentation of water supplies.

17 (b) Groundwater management charges imposed pursuant to this
18 part are declared to be in furtherance of district activities in the
19 management, protection, and augmentation of the water supplies
20 of the district, including reasonably related watershed stewardship
21 activities, necessary for the public health, welfare, and safety of
22 the people of the district and this state. The groundwater
23 management charges may be imposed upon the owner or operator
24 of water-producing facilities within a zone that rely directly or
25 indirectly upon the groundwater supplies of the zone, water
26 imported into the zone, or water management facilities or programs
27 within the zone or that benefit the zone.

28 (c) In recognition of the public policy of the state that agriculture
29 helps to preserve land in its natural, scenic, and historic open-space
30 condition, which is an important environmental asset, and in
31 recognition of the greater likelihood of return flows, provision of
32 permeable surfaces to facilitate groundwater recharge, reduced
33 water usage on a per acre basis, greater water supply flexibility,
34 reduced water service and infrastructure costs, and other factors
35 that provide the basis for a differential rate, the board, by resolution
36 supported by substantial evidence, and consistent with Article
37 XIID of the California Constitution, may impose a different rate
38 for water to be used for agricultural purposes.

1 (d) Groundwater management charges shall be calculated on
2 the basis of *metered volume pumped, or if otherwise permitted by*
3 *law, on the basis of* groundwater production statements.

4 100124. The proceeds of groundwater management charges
5 imposed and collected upon the production of water from
6 groundwater supplies within the district may be used to pay costs,
7 including staff costs, for the following conjunctive management
8 activities:

9 (a) Permitting, managing, constructing, maintaining, and
10 operating facilities to import water into the district, including
11 payments made under any contract between the district and the
12 state, the United States, or any public, private, or municipal entity.

13 (b) Purchasing water for the benefit of the district, including
14 payments made under contract to the state, the United States, or
15 any public, private, or municipal entity.

16 (c) Managing water supplies for the long-term benefit of the
17 district, including demand management activities and watershed
18 stewardship activities related to the preservation and improvement
19 of the quantity and quality of groundwater supplies in the zone in
20 which the groundwater management charges are imposed.

21 (d) Actions and programs to conserve, store, inject, recharge,
22 recycle, protect, treat, transfer, exchange, or distribute water for
23 the current and future benefit of the district. These actions include
24 permitting, constructing, maintaining, and operating facilities for
25 these purposes, including facilities for groundwater recharge,
26 surface distribution, conjunctive use, the treatment of water, and
27 emergency backup and operational flexibility.

28 (e) Payment of the principal or interest of any bonded
29 indebtedness or other obligations incurred by the district for any
30 of the purposes set forth in this section.

31 100125. If a new or increased property-related groundwater
32 management charge or fee is proposed, the district shall comply
33 with the requirements of Article XIII D of the California
34 Constitution, including providing written notice by mail to all
35 record owners within the zone subject to the charge or fee. The
36 notice shall contain all of the following:

37 (a) The amount of the charge or fee, or the formula used for
38 imposition of the charge or fee, including whether the formula is
39 by acre foot or another measure.

1 (b) The basis upon which the amount of the proposed charge
2 or fee was calculated.

3 (c) The reason for the charge or fee.

4 (d) The date, time, and location of the public hearing on the
5 proposed charge or fee.

6 (e) A disclaimer that, if a majority of record owners within the
7 zone subject to the charge or fee file written protests against
8 imposition of the new or increased charge or fee, the new or
9 increased charge or fee will not be imposed.

10 100126. (a) The district shall conduct a public hearing for the
11 proposed new or increased groundwater management charge or
12 fee not less than 45 days after mailing the notice required pursuant
13 to Section 100125.

14 (b) The district shall consider all protests against the proposed
15 new or increased charge or fee and if written protests are presented
16 by a majority of the record owners within the zone subject to the
17 charge or fee, then the district will not impose the proposed charge
18 or fee for that zone.

19 100127. Any or all revenues received by the district from
20 treated water sale contracts or surface water sales may be applied
21 to any or all of the costs set forth in Section 100124.

22 100128. (a) Prior to the end of the fiscal year, based on the
23 findings and determinations from the hearing, if a hearing is
24 required under Section 100125, and in accordance with the budget
25 for that year, the board shall determine whether an existing
26 groundwater management charge or fee should remain the same,
27 be reduced, or *be* increased. A previously approved charge remains
28 in effect until reduced or increased. The anticipated revenues to
29 be derived from the charge shall not exceed the funds anticipated
30 to be needed for groundwater management services provided,
31 including prudent short- and long-term water supply and
32 conservation management, operations, maintenance, financing,
33 including prudent reserves adopted consistent with a publicly
34 noticed board-adopted reserve policy and capital expenditures
35 pursuant to this part.

36 (b) Imposition and collection of groundwater management
37 charges shall be as follows:

38 (1) Any groundwater management charge imposed shall be
39 calculated at a volumetric rate or rates per acre-foot against each

1 operator of a water-producing facility within a zone during the
2 ensuing fiscal year.

3 (2) A rate or rates may be set in each zone independent of the
4 rate or rates in any other zone.

5 (3) If the board has adopted an ordinance authorizing rate
6 structures to promote conservation, including tiered rates, and
7 determines, based upon credible, fact-based, scientific or
8 engineering evidence, that the evidence supports imposing the
9 water conservation rate structure, the rates shall be established
10 consistent with the rationale and method established in the
11 ordinance.

12 (4) If there is substantial evidence of proportional benefits
13 resulting from the agricultural use of water, consistent with the
14 requirements set forth in subdivision (c) of Section 100123, the
15 base rate for agricultural water use may be established at a level
16 that is less than the rate for nonagricultural water.

17 (5) Clerical errors involving the name of any person or
18 description of a water-producing facility from which the production
19 of water is otherwise properly charged, that do not affect the
20 substantial rights of the water-producing owner or operator, shall
21 not invalidate the groundwater management charge.

22 (c) If the board determines that an off-cycle imposition or
23 adjustment of the groundwater management charge is necessary
24 to adapt to changes in the cost of service, the board may impose
25 or adjust any groundwater management charge, or the rates of any
26 charges, on or before January 1 of each year pursuant to the
27 following process:

28 (1) The district shall prepare a supplemental report to the annual
29 report prepared pursuant to Section 100122, explaining the reasons
30 for the imposition or adjustment of the charges.

31 (2) After the preparation of the supplemental report, the district
32 shall follow the process identified in Sections 100125 and 100126.

33 100129. Upon board adoption of a groundwater management
34 charge, the district shall give notice stating the board-approved
35 applicable rate or rates per acre-foot of water production for the
36 groundwater management charge in the applicable zone. The notice
37 shall indicate whether the owner or operator will be invoiced, or
38 if the district shall rely on a required self-reported water production
39 statement. The notice may be sent by postal card or by other
40 first-class mail with postage prepaid by the district to each record

1 owner of a water-producing facility as disclosed by the records of
2 the district.

3 100130. (a) The groundwater management charge is due and
4 payable to the district on or before the last date upon which the
5 water production statements are required to be filed.

6 (b) The charge is computed by multiplying the acre-feet of water
7 produced by the applicable rate.

8 (c) The district may impose an annual administrative charge for
9 a water producing facility. However, that charge shall not exceed
10 the estimated annual cost to the district of maintaining and
11 administering the account associated with the facility.

12 (d) If any owner or operator of a water-producing facility fails
13 to pay the groundwater management charge when due, the district
14 shall charge interest at the rate of 1 percent each month on the
15 delinquent amount of the groundwater management charge.

16 (e) The board may adopt regulations to provide that in excusable
17 or justifiable circumstances the penalty may be reduced or waived.

18 100131. (a) If any owner or operator of a water-producing
19 facility fails to register a water-producing facility, or fails to file
20 a water production statement if required by Section 100121, the
21 district, in addition to charging interest, shall assess an
22 administrative charge to recover the costs of collection, and a
23 penalty charge against the owner or operator in an amount of 10
24 percent of the amount found by the district to be due.

25 (b) The board may adopt regulations to provide that in excusable
26 or justifiable circumstances the penalty may be reduced or waived.

27 100132. (a) Upon good cause shown, an amended statement
28 of water production may be filed or a correction of the records
29 may be made at any time within one year of filing the water
30 production statement.

31 (b) If, pursuant to Section 100130, the owner or operator has
32 been notified of a determination by the district that the production
33 of water from the water-producing facility is in excess of that
34 disclosed by the sworn statement covering the water-producing
35 facility, and the owner or operator fails to protest the determination
36 in the manner and in the time set forth in this part, the owner or
37 operator shall be precluded from demonstrating good cause as
38 provided in subdivision (a).

CHAPTER 8. PROPERTY

100140. The district has the right-of-way for the location, construction, and maintenance of water utility and flood protection facilities, and water resources stewardship facilities in, over, and across public lands of the state, not otherwise disposed of or in use. The right-of-way granted is limited to the length and width necessary for the construction and protection of those facilities. If the selection of a right-of-way is made by the district, it shall transmit to the State Lands Commission, the Controller, and the recorder of the county in which the selected lands are situated, a duly verified plat of the lands so selected, giving the extent and the uses for which the same is claimed or desired. If the State Lands Commission approves the selection, it shall endorse its approval upon the plat and issue the district a permit to use the right-of-way and lands.

100141. The legal title to all property acquired under this part immediately and by operation of law vests in the district, and shall be held by the district, in trust, for the uses and purposes set forth in this part.

100142. (a) The board, by resolution, may determine that any real property or interest in real property is no longer necessary to be retained for district uses or purposes. The district may thereafter sell, lease, or otherwise dispose of the property, including, but not limited to, the following types of property:

(1) Real property that, in the determination of the board, has no access to a public road.

(2) An easement for ingress and egress to property that, by the terms of the easement, terminates when ingress and egress is supplied to the property by a public road.

(b) (1) The board may reconvey surplus real property to the former owner from whom the property was obtained or condemned, or to the owner's successor in interest, for fair market value. Fair market value shall be determined by a qualified real estate appraiser.

(2) The district may reconvey real property to the former owner, or successor in interest, for less than fair market value only if the board finds that a public purpose exists justifying reconveyance for less than fair market value, or as authorized by state law.

1 (c) The board, by resolution, may exchange real property of
2 equal value with any person for the purpose of removing defects
3 in the title to real property owned by the district or where the real
4 property to be exchanged is not required for district use and the
5 property to be acquired is required for district use.

6 (d) The board, by resolution, may adopt a procedure for the
7 leasing of real property owned by the district.

8 (e) The board may sell, lease, or otherwise transfer to the state,
9 county, or to any city, school district, or other special district within
10 the district, or exchange with the public entity, any real or personal
11 property or interest in that property belonging to the district upon
12 agreed terms and conditions.

13 (f) Under circumstances not specifically prescribed by this part,
14 the requirements of law regarding the disposition of real property
15 applicable to counties shall govern the district.

16 100143. The board shall adopt regulations for the exchange,
17 sale, or other disposition of district personal property no longer
18 necessary to be retained for district uses or purposes. Any sale of
19 personal property that constitutes a “fixed asset,” shall only be
20 made upon public bid. Notice of the district’s intended action shall
21 first be given as prescribed in Section 25363 of the Government
22 Code.

23 *100144. Notwithstanding any other provision of this chapter,*
24 *the district shall obtain a lease from the State Lands Commission*
25 *for the location, construction, or maintenance of any facility in,*
26 *over, or across lands that are under the jurisdiction of the State*
27 *Lands Commission.*

28
29 CHAPTER 9. PLANNING AND APPROVAL OF CAPITAL PROJECTS
30

31 100150. It is the intent of this chapter to ensure that the public
32 is informed about proposed capital projects and their funding
33 sources, that broad environmental considerations are included at
34 the earliest possible phase of planning, and that adequate
35 opportunities are afforded the public to participate in the
36 decisionmaking process.

37 100151. (a) If the board of directors determines that a capital
38 project is feasible, useful, or necessary to carry out the purposes
39 or provisions of this part, it shall initiate the project consistent with
40 this part.

1 (b) The board may receive or request planning study reports or
2 additional information, including the filing of amended or
3 supplemental reports, in order to have sufficient information to
4 provide ongoing direction regarding analysis of a project.

5 (c) The board shall determine which projects or works of
6 improvement shall be carried out and shall determine, as to each
7 project or work of improvement, that it is one of the following:

8 (1) For the common benefit of the district as a whole.

9 (2) For the common benefit of two or more but less than all
10 zones.

11 (3) For the benefit of a single zone.

12 100152. (a) An engineer's report shall be filed with the board
13 for consideration at a public hearing if the project is funded
14 partially or fully by a single zone, or two or more but less than all
15 zones of benefit, rather than by a districtwide funding mechanism.

16 (b) The engineer's report shall include all of the following:

17 (1) A determination of zone of benefit and sources of funding.

18 (2) A general description of the project.

19 (3) A general description of the lands, rights-of-way, easements,
20 and property proposed to be taken, acquired, or injured in carrying
21 out the project.

22 (4) A map that shows the location and zone of benefit of the
23 project and includes a visual depiction of the information required
24 in paragraph (3).

25 (5) An estimate of the cost of the project, including both of the
26 following:

27 (A) The cost of lands, rights-of-way, easements, and property
28 proposed to be taken, acquired, or injured in carrying out the
29 project.

30 (B) All incidental expenses likely to be incurred, including legal,
31 clerical, engineering, superintendence, inspection, printing, and
32 advertising.

33 (c) The board shall set and hold a public hearing to receive
34 comments from the public on a project's engineer's report, as
35 follows:

36 (1) The time and place for the public hearing where the board
37 will consider all comments on the engineer's report shall be
38 noticed. Notice of the public hearing shall be communicated in a
39 manner designed to provide the concerned public with notice and
40 shall also comply with the applicable provisions set forth in the

1 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
2 of Part 1 of Division 2 of Title 5 of the Government Code) or any
3 other applicable requirements.

4 (2) At the time and place fixed for the hearing, or at any time
5 to which the hearing is continued, the board shall consider all
6 written and oral comments regarding the project's engineer's report.

7 (3) If, prior to the conclusion of the hearing on the engineer's
8 report, written protests against the proposed project signed by more
9 than one-third of the registered voters residing within the affected
10 zone are filed with the board, the board may in its discretion either
11 abandon the project or suspend further proceedings on the proposed
12 project for at least one year.

13 100153. The completed planning study report, including
14 amended or supplemental reports, if any, an engineer's report, if
15 applicable, and the board's independent review and determination
16 that the project's environmental documentation is adequate and
17 complies with the California Environmental Quality Act (Division
18 13 (commencing with Section 21000) of the Public Resources
19 Code) are prerequisites to board approval of a project.

20
21 CHAPTER 10. ENFORCEMENT
22

23 100160. (a) If the district has probable cause to believe that
24 the production of water from a water-producing facility is in excess
25 of that disclosed by the sworn statements covering that
26 water-producing facility, or if no statement is filed covering a
27 water-producing facility, the district may conduct an investigation
28 and report its conclusions.

29 (b) Based on the information acquired in the investigation, the
30 district may establish the amount of water production from any
31 water-producing facility at an amount not to exceed its maximum
32 production capacity. If a water-measuring device is permanently
33 attached, its record of production is rebuttably presumed to be
34 accurate.

35 (c) After a determination has been made by the district, the
36 district shall mail a written notice of the determination to the person
37 operating the water-producing facility at the address shown in the
38 district's records. The determination made by the district is
39 conclusive as to all persons. The groundwater management charge,
40 and the interest and penalties, are immediately due and payable,

1 unless a protest is filed with the board within 15 days after the
2 mailing of the notice. Notice is complete at the time of deposit in
3 the mail, with first-class postage affixed.

4 (d) Upon the timely filing of a written protest setting forth the
5 grounds for protesting the determination of the district, the board,
6 or its designee, shall set a hearing date. Notice shall be mailed to
7 the protestant at least 10 days before the date fixed for the hearing.
8 The protestant shall have an opportunity to be heard at the hearing.
9 The district shall determine the total amount of the water
10 production and the groundwater management charge based upon
11 substantial evidence. If the water production statement was filed
12 and the amount disclosed was paid within the time required by
13 this part, and the district finds that the failure to report the amount
14 of water actually produced resulted from excusable or justifiable
15 circumstances, interest on the amount found to be due may be
16 waived. Notice of the determination by the board, or its designee,
17 shall be mailed to each protestant. Payment of the groundwater
18 management charge, and interest or penalties finally determined
19 to be due shall be made within 20 days from the date of mailing
20 of the notice of determination.

21 100161. The district shall maintain, and annually update,
22 records with regard to water production and the imposition of
23 groundwater management charges within the district. The records
24 shall include a general description of the property upon which each
25 water-producing facility is located, an identifying number or code
26 assigned to each facility, the annual water production from each
27 water-producing facility, and the groundwater management charge
28 imposed and collected at each rate.

29 100162. (a) The district may commence and prosecute
30 injunctive relief actions in superior court against an owner or
31 operator of a water-producing facility for failure to adhere to any
32 of the requirements of this part, including requirements relating
33 to the registration of a water-producing facility with the district,
34 or the timely payment of groundwater management charges.

35 (b) The court may issue and grant an injunction restraining and
36 prohibiting the named defendant from the operation of any
37 water-producing facility if it is established that the defendant has
38 failed to register the water-producing facility with the district, or
39 that the defendant is delinquent in payment of groundwater
40 management charges.

1 (c) The right to proceed for injunctive relief granted in this
2 section is an additional remedy to others provided elsewhere in
3 this part or otherwise allowed by law. Except as otherwise provided
4 by this part, Chapter 3 (commencing with Section 525) of Title 7
5 of Part 2 of the Code of Civil Procedure governs injunctive relief
6 actions described in this section. The district shall not be required
7 to provide an undertaking or bond as a condition to granting
8 injunctive relief.

9 100163. The district may bring a suit in the court having
10 jurisdiction against any operator of a water-producing facility
11 within the district for the collection of any delinquent groundwater
12 management charge. The court, in addition to allowing recovery
13 of costs as allowed by law, may fix and allow as part of the
14 judgment interest and penalties as provided in this part. If the
15 district, as a provisional remedy in bringing the suit, seeks an
16 attachment against the property of any defendant named in the
17 action, the district shall not be required to provide a bond or
18 undertaking.

19 100164. (a) It is unlawful to produce water from any
20 water-producing facility required to be registered in accordance
21 with this part if that water-producing facility has not been so
22 registered, and, if required by the board, the facility does not have
23 a water-measuring device affixed to the facility capable of
24 registering the accumulated amount of water produced.

25 (b) Violation of this provision is a misdemeanor, punishable by
26 a fine not to exceed five hundred dollars (\$500), or imprisonment
27 in the county jail not to exceed six months, or by both the fine and
28 imprisonment. Each day of operation in violation shall constitute
29 a separate offense.

30 100165. Any person who injures, alters, removes, resets,
31 adjusts, manipulates, obstructs, or in any manner interferes or
32 tampers with, or procures or causes or directs any person to injure,
33 alter, remove, reset, adjust, manipulate, obstruct, or in any manner
34 interfere or tamper with any water-measuring device affixed to
35 any water-producing facility as required by this part, that causes
36 the water-measuring device to improperly or inaccurately measure
37 and record water production, or any person who willfully does not
38 submit a water production statement to the district in accordance
39 with this part, or any person who willfully removes or breaks a
40 seal attached to an abandoned water-producing facility, or any

1 person who with intent to evade any requirement of this part files
2 with the district any false or fraudulent water production statement
3 is guilty of a misdemeanor and is punishable by a fine not to exceed
4 five hundred dollars (\$500), or imprisonment in the county jail not
5 to exceed six months, or by both fine and imprisonment.

6 100166. In implementing the enforcement of this part relating
7 to groundwater management charges, the district, in addition to
8 the powers specified elsewhere in this part, may take any of the
9 following actions:

10 (a) Install and maintain water-measuring devices, and other
11 devices that will aid in determining accurate water production, on
12 water-producing facilities not owned by the district.

13 (b) Affix seals to water-producing facilities that the owner or
14 operator has declared to be abandoned, or are in fact permanently
15 abandoned.

16 (c) After giving notice, enter onto any land for the purposes
17 enumerated in this section and for the purpose of making
18 investigations relating to water production.

19 100167. (a) Any abandoned well, or other well, or other
20 circumstance endangering the public health and safety by creating
21 a water contamination hazard, is a public nuisance.

22 (b) If the district determines that a public nuisance exists, and
23 must be abated, the district, by certified mail, shall notify the
24 current record owner of the property of the need to abate the public
25 nuisance and that it is the intention of the district to record a notice
26 of violation of the ordinance.

27 (c) The notice to the owner shall describe the violation and
28 specify a time, date, and place for a hearing, at which the owner
29 may present evidence to the board that a public nuisance does not
30 actually exist and that the notice should not be recorded. The notice
31 to the owner shall state that, unless the public nuisance is abated
32 within the time specified by the board following the hearing, the
33 district may abate the public nuisance and the costs of the
34 abatement will be assessed against the property.

35 (d) The hearing shall take place no sooner than 30 days and no
36 later than 60 days from date of mailing of the notice.

37 (e) If, within 15 days of receipt of the notice, the owner of the
38 real property fails to inform the district of his or her objection to
39 recording the notice of violation, the board may record the notice
40 of violation with the county recorder.

1 (f) If, after hearing, it is determined that there has been no
2 violation, the district shall mail a clearance letter to the then current
3 owner of record. If, after the hearing, the board determines that a
4 violation has in fact occurred, the board shall record the notice of
5 violation with the county recorder.

6 (g) The notice of violation, when recorded, is constructive notice
7 of the violation to all successors in interest in the property.

8 (h) If the board determines, at the conclusion of the hearing,
9 that a public nuisance actually exists, the board may order the
10 property owner to abate the public nuisance within a specified
11 time.

12 (i) If the public nuisance is not abated within the time specified
13 in the order of the board following a hearing, the district may abate
14 the public nuisance. Any entry upon private property by the district
15 for this purpose shall be preceded by written notice to the owner
16 by certified mail stating the date and place of entry, the purpose,
17 and the number of persons entering. If the mailed notice is returned
18 undelivered, the district may provide notice by posting a copy of
19 the notice at the proposed entry point five days prior to entry.

20 (j) Any costs incurred by the district in abating a public nuisance
21 pursuant to this section are a lien upon the property upon which
22 the public nuisance existed when notice of the lien is filed and
23 recorded.

24 (k) The district shall record notice of the lien, particularly
25 identifying the property on which the nuisance was abated and the
26 amount of the lien, and naming the owner of record of the property,
27 in the office of the Santa Clara County Recorder within one year
28 after the first item of expenditures by the district or within 90 days
29 after the completion of the work, whichever occurs first. Upon
30 recordation of the notice of lien, the lien has the same force, effect,
31 and priority as a judgment lien, except that it attaches only to the
32 property described in the notice, and continues for 10 years from
33 the date of recording of the notice unless sooner released or
34 otherwise discharged.

35 (l) As used in this section, "contamination" has the same
36 meaning as set forth in subdivision (k) of Section 13050.

37 SEC. 4. The provisions of this act are severable. If any
38 provision of this act or its application is held invalid, that invalidity
39 shall not affect other provisions or applications that can be given
40 effect without the invalid provision or application.

SEC. 5. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique and special surface water, groundwater, and floodwater problems in the area included in the Santa Clara Valley Water District.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution, or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CORRECTIONS:

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